

T -

### **MINUTES OF MEETING - AUGUST 28, 2004**

A meeting of the Chiropractic Physicians' Board of Nevada was held on Saturday, August 28, 2004 in Room 4412 of the Grant Sawyer State Office Building, 555 E. Washington Avenue, Las Vegas, Nevada. The following were present at 9:13 AM for the roll call:

Robert Lazenby, Consumer Member  
Donald Miner, DC, Secretary  
Clyde Porter, DC, Member  
Ian Yamane, DC, Member  
Stephanie Youngblood, DC, President

Vice President Dr. Margaret Colucci arrived at 9:15 AM. Dr. Youngblood introduced Deputy Attorney General Christine Guerci. CPBN Executive Director Cindy Wade was also present.

**AGENDA ITEM** A quorum was present and the meeting was called to order by President Dr. Youngblood.

**AGENDA ITEM 2** Dr. Miner moved to approve the agenda. Dr. Yamane seconded and the motion passed unanimously.

**AGENDA ITEM 3** Dr. Miner moved to grant DC licenses to those who passed the August 11, 2004 examination as listed on the agenda. Motion was seconded by Bobby Lazenby and passed unanimously.

**AGENDA ITEM 4A** Dr. Youngblood is currently working with Christine Guerci on Complaint 02-9 and will present it for the Board's disposition at the next meeting.

**AGENDA ITEM 4B** Ms. Guerci has drafted the formal complaint in preparation to go to hearing December 4-5, 2004 on Complaint 02-20.

**AGENDA ITEM 4C** Complaint 04-5 was filed administratively because a licensee is currently on probation for his second drug-related offense. Mr. Lazenby was not prepared to present the complaint for disposition because he has not had an opportunity to review it with Senior DAG Bob Auer.

**AGENDA ITEM 4D** Dr. Miner has investigated Complaint 04-8 which alleges that a DC caused a rib fracture. He found no evidence of a violation of NRS 634. Dr. Porter moved for dismissal of the complaint which was seconded by Dr. Colucci and passed unanimously.

**AGENDA ITEM 4E** Investigation by Dr. Youngblood of Complaint 04-9 has revealed possible discrepancies in the manner in which the DC has billed a patient's insurance. She will obtain a copy of the provider contract for further investigation and will report back to the Board.

**AGENDA ITEM 4F** Complaint 04-12 was filed by an attorney because his PI client was referred to a DC when she was discharged from a hospital. The DC has made numerous calls to him and to the client because she chose not to follow up with the DC. Bobby Lazenby has discussed this with the DC but his investigation is not yet complete.

**AGENDA ITEM 4G** Dr. Miner has completed his investigation of Complaint 04-13 which was filed by an 82-year-old patient who protested the DC's treatment protocols, billing procedures and delay in receiving his records. The patient records received from the DC meet record keeping standards, and the patient has received his records and an explanation of his billings. Dr. Miner moved for dismissal, Mr. Lazenby seconded that the motion passed unanimously.

**AGENDA ITEM 4H** Complaint 04-14 alleges that the DC did not timely bill the patient's insurance. Dr. Yamane has requested the patient records from the DC and will report again after he has received and reviewed them.

**AGENDA ITEM 4I** Complaint 04-15 was filed by a DC's former employee because the DC never registered her with the Board as a CA for Massage. Dr. Colucci is consulting on this matter with Christine Guerici.

**AGENDA ITEM 4J** Dr. Yamane explained that Complaint 04-16 is a billing dispute. The patient came to the DC's office on a promotion and there was a misunderstanding over the charges. The DC wrote off some charges but billed for the examination. The patient feels he should not have to pay for the exam and the DC has agreed to write off the balance. Dr. Miner moved to dismiss the complaint provided the DC follows through with the write-off. Bobby Lazenby seconded and the motion passed unanimously.

**AGENDA ITEM 4K** Complaint 04-17 was filed by a patient because the DC and his wife harassed her regarding their dissatisfaction with the business policies of the third party administrator by whom the patient is employed. She has subsequently received a letter of apology from the wife who has promised that such behavior will not happen again. Dr. Porter moved to dismiss the complaint with a warning letter. Dr. Miner seconded the motion and it passed unanimously.

**AGENDA ITEM 4L** Complaint 04-18 was filed by a couple alleging unclean and unsanitary conditions at a multi-disciplinary clinic where they were treated by a DC. Ms. Guerici recommended that the clinic be visited for investigation of its condition. Dr. Miner so moved. The motion was seconded by Dr. Yamane and passed unanimously. Dr. Youngblood and Mr. Lazenby will inspect the clinic and report back on this complaint.

**AGENDA ITEM 5** Dr. Miner moved and Dr. Youngblood seconded for approval of the minutes of June 19-20, June 24 and July 1, 2004, July 20, 2004 and August 3, 2004. Following discussion, the motion did not pass with Drs. Colucci, Miner and Youngblood in favor and Drs. Porter and Yamane and Mr. Lazenby opposed. Mr. Lazenby moved to delete the last two paragraphs on Page 3 of the drafted minutes of June 19-20, June 24 and July 1, 2004. Dr. Miner seconded and the motion passed unanimously. Mr. Lazenby requested that the fifth, sixth and seventh paragraphs on Page 4 of the drafted minutes of June 19-20, June 24 and July 1, 2004 be deleted. Dr. Miner so moved. Dr. Yamane seconded and the motion passed with all in favor except Dr. Porter who was opposed.

Dr. Porter moved for approval of the July 20, 2004 minutes. Dr. Miner seconded the motion and it passed unanimously.

Dr. Porter moved for approval of the August 3, 2004 minutes provided Dawn Gibbons' name be stricken from Page 2 of the draft. Dr. Yamane seconded and the motion passed unanimously.

**AGENDA ITEM 6** Dr. Miner explained that the proposed Expedited Complaint Procedure was the result of his attendance at the FCLB Annual Meeting and described how it will work. Ms. Guerci expressed her concerns regarding due process considerations. This matter will be placed on a future agenda and Ms. Guerci will provide sample letters that set forth specifics for the board's consideration.

**AGENDA ITEM 9** Dr. Craig Foreman's presence was acknowledged and the revised proposed modification of *NAC 634.3665 Requirements to perform manipulation on patient under anesthesia* was reviewed. Dr. Miner moved for approval of the proposed revised regulation. Mr. Lazenby seconded and the motion passed unanimously.

**AGENDA ITEM 7** Christine Guerci presented the background and advantages of the proposed Bill Draft for establishment of Commission of Occupational Licensing. Dr. Porter moved that the Board take a position to support the BDR to create a Commission of Occupational Licensing. Dr. Yamane seconded the motion. Following discussion, Dr. Porter amended his motion to request a monthly status report to include the nature of the complaints, complaint flow and dispositions. Dr. Yamane seconded and the motion passed with all in favor except Bobby Lazenby who opposed.

**AGENDA ITEM 8** Dr. Youngblood announced that Dr. Miner and she will represent the Board at the FCLB October 14-17, 2004 regional meeting in Portland, Oregon. All other Board members are welcome to attend, however the Board will only pay the expenses of the two appointed delegates. There will be no voting and no one brought up any issues to be addressed. Dr. Yamane moved to approve Drs. Miner and Youngblood to attend the meeting and Dr. Colucci seconded. However, approval of the delegates was not on the agenda and Dr. Yamane withdrew his motion and Dr. Colucci withdrew her second.

**AGENDA ITEM 13** This Complaints Received report was informational and there was no discussion.

**AGENDA ITEM 14** The status of current probations was reviewed. Christine Guerici referred to a suspended DC whose debt to the Board for his disciplinary costs has been discharged by bankruptcy. She stated that the Board should consider also rendering fines because they cannot be discharged. Dr. Youngblood reported that a doctor who is currently on probation was in jeopardy of being suspended because the compliance monitor misunderstood the terms of his contract and had not issued a quarterly report as required. Dr. Youngblood will get this straightened out. It was agreed that there should probably be a policy wherein the Executive Director should be responsible for following up directly with the licensees on compliance. Cindy will work with Ms. Guerici regarding a licensee who is in default in his quarterly reporting to the Board on the current status of his child support payments.

**AGENDA ITEM 15** This Legal/Investigatory report was informational and there was no discussion.

**AGENDA ITEM 10** The financial report was reviewed and Dr. Miner moved for its approval. Dr. Yamane seconded and the motion passed unanimously.

**AGENDA ITEM 11** Dr. Porter moved that the CPBN create a statement clarifying the roles, relationships and duties of the Chiropractic Assistant and the Chiropractic Massage therapist, and the supervising chiropractor in this relationship and further delineating the difference between an independent contractor massage therapist and a Chiropractic Massage therapist and their respective rights regarding patient billings for services rendered by the separate parties, as well as the registration and education requirements where applicable for these adjunct practitioners. Dr. Yamane seconded the motion. Following discussion, Dr. Porter amended his motion to add the recommendation that this information be included once a year in the license renewal package that will cite all of the statutes and regulations that govern CAs and CAMs. The motion did not pass with Dr. Porter in favor and Drs. Colucci, Miner, Yamane and Youngblood and Mr. Lazenby opposed. Mr. Lazenby moved that the Executive Director, at her discretion, address pertinent current topics with respect to CAs and CAMs in the Board's Newsletter. Dr. Miner seconded the motion and it passed unanimously.

The meeting recessed for lunch at 1:00 PM and resumed at 3:00 PM.

**AGENDA ITEM 16** The report on Executive Director accrued vacation time was reviewed and clarified.

**AGENDA ITEM 17** Dr. Porter presented his position regarding the intent of the language of NRS 634.018(16), specifically addressing the meaning(s) and definitions of Independent Medical Exam and any related terms appearing in NRS 634 or NAC 634 which are unclear and their application in fulfillment of the Board's duties. This matter was tabled until a definition can be obtained from the Board of Independent Medical Examiners and will be addressed at a future meeting.

**AGENDA ITEM 18** Dr. Miner will draft protocols with parameters for the lobbyist responsibilities with respect to the Board's needs for presentation at a future meeting.

**AGENDA ITEM 19** Following discussion of the need to have Board Counsel present at all meetings, Dr. Youngblood agreed to draft a policy in this regard for consideration at a future meeting.

**AGENDA ITEM 20** In response to Dr. Yamane's request for consideration of the feasibility of administering the DC law test in Las Vegas, he and Cindy will work out a proposed schedule for presentation at the next meeting. Cindy read public comment from Dr. Eric Eakin requesting the Board provide on-line testing.

**AGENDA ITEM 21** Dr. Yamane will contact Palmer Chiropractic College President, Dr. Kern, for more information as to the feasibility of allowing DC applicants to adjust under the supervision of a licensed DC.

**AGENDA ITEM 22** Board Secretary Dr. Miner will respond to a request from Drs. DeVito and Bradley that their request to utilize the designation of "C.Ad" for Certified Addictionologist is denied because it would be a violation.

**AGENDA ITEM 23** Dr. Miner will respond to a letter from Dynamic Chiropractic editor/publisher Donald Peterson inquiring if CPBN has had any problems with a DC who is currently facing discipline in another state.

**AGENDA ITEM 24** Under Board Member comments, it was agreed that the next meeting will be a conference call at Noon on Tuesday, September 14, 2004. The videoconference to adopt temporary regulations will be held from 11:30 AM through 1:30 PM on Tuesday, October 12, 2004.

Dr. Porter requested that a policy regarding issuance of agendas be considered at a future meeting.

**AGENDA ITEMS 12G&H** It was agreed that the Executive Director Job Description should take priority in the policy and procedure elements. It needs to be entered electronically and broken down by category. Dr. Miner moved to adopt the proposed ED Job Description and that of the License Specialist in concept as written with the understanding that they are working documents subject to change. Dr. Yamane seconded and the motion passed unanimously.

Dr. Porter proposed that preliminary outlines of the policies and procedures should be computerized by the Executive Director for ease of refining into a working manual.

**AGENDA ITEM 12A** Following discussion, Dr. Yamane moved for adoption of the proposed Safety policy on a "boilerplate" basis. Mr. Lazenby seconded and the motion passed unanimously.

**AGENDA ITEM 12B** Mr. Lazenby moved to table the proposed Grievance Procedure policy until it can be rewritten to fit this Board's situation. Dr. Miner seconded the motion and it passed unanimously.

**AGENDA ITEM 12C** Dr. Miner suggested that the proposed Staff Salary and Benefits policy should be compared to the State benefits package which is currently being followed. He moved to table this matter until the next meeting. Dr. Youngblood seconded and the motion passed unanimously.

**AGENDA ITEM 12D** Dr. Miner moved to continue consideration of the proposed Sexual Harassment policy until the next meeting so that it can be compared with the State policy. Dr. Youngblood seconded and the motion passed with all in favor except Dr. Porter who opposed.

**AGENDA ITEMS 12E&F** Dr. Yamane moved to table the proposed Evaluations and Staff Positions policies until they can be compared with the State policies. Mr. Lazenby seconded the motion which passed with all in favor except Dr. Porter who opposed.

**AGENDA ITEM 12H** It was agreed that the Executive Committee should be comprised of the Board officers with the ED an ex parte member for administrative purposes.

**AGENDA ITEM 12I** Dr. Miner moved to adopt the Secretary-Treasurer Description of Duties in concept. The motion was seconded by Dr. Yamane and passed unanimously.

**AGENDA ITEM 12J** Dr. Miner moved to address the President Description of Duties at the next meeting after he and Cindy work on it. Mr. Lazenby seconded and the motion passed unanimously.

**AGENDA ITEM 25** There was no public comment.

The meeting adjourned at 5:24 PM.

Approved: October 12, 2004

---

Donald H. Miner, DC, Secretary